

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Greg Zawadowicz)	
)	
<i>Plaintiff,</i>)	
-vs-)	No. 08 CV 2550
)	
Mark Vail, Sheamus B. Fergus,)	<i>(Judge Lefkow)</i>
John L. Folino Jr., Timothy)	
McDermott,)	
)	
<i>Defendants.</i>)	

SECOND AMENDED COMPLAINT

Pursuant to leave of Court, plaintiff files this second amended complaint and, by counsel, alleges as follows:

1. This is a civil action arising under 42 U.S.C. §1983; the jurisdiction of this Court is conferred by 28 U.S.C. §1343.

2. Plaintiff Greg Zawadowicz is a resident of the Northern District of Illinois.

3. Defendants Mark Vail, Sheamus B. Fergus, John L. Folino Jr., and Timothy McDermott are police officers employed by the City of Chicago. These defendants are sued in their individual and in their official capacity.

4. On August 2, 2006, defendants Vail, Fergus, Folino, and McDermott arrested plaintiff at his home.

5. After arresting plaintiff, and in accordance with a policy or widespread practice of the City of Chicago, one or more of defendants Vail, Fergus, Folino, and McDermott caused plaintiff to be held in custody for more than 48 hours while the officers sought to build a case against him.

6. On August 4, 2006, defendant Folino signed a “complaint for preliminary examination” averring that plaintiff “had killed Marcin Strojny without lawful justification by battering him with a blunt instrument knowing that such act created a strong probability of great bodily harm or death to Marcin Strojny.”

7. At the time he signed the above referred complaint, Folino could not have reasonably believed that plaintiff had battered Strojny with a blunt instrument.

8. Plaintiff appeared before a judge on August 5, 2006, who ordered that plaintiff be held in custody on the above referred “complaint for preliminary examination” in lieu of \$40,000 cash bond.

9. Plaintiff was held in custody pursuant to the above referred sworn complaint until September 20 2006 when he was formally charged by indictment.

10. **Claim I:** Plaintiff was deprived of rights secured by the Fourth Amendment as he was held in custody for more than 48 hours while the officers sought to build a case against him.

11. **Claim II:** Plaintiff was falsely imprisoned and thereby deprived of rights secured by the Fourth Amendment when he was held in custody pursuant to the false “complaint for preliminary examination” signed by defendant Folino.

12. Plaintiff demands trial by jury.

Wherefore plaintiff requests that judgment be entered in his favor in an amount in excess of one hundred thousand dollars and that the costs of this action, including reasonable attorneys’ fees, be taxed against defendants.

/s/ Kenneth N. Flaxman
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Shneur Nathan, Esq., Andrew M. Hale & Assoc, 53 W Jackson Blvd, Ste 1800, Chicago, IL 60604, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none.

/s/ Kenneth N. Flaxman

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